

BILL NO. **91-31**

COUNTY COUNCIL
OF
HARFORD COUNTY, MARYLAND

AS AMENDED

BILL NO. 91-31 (AS AMENDED)

Introduced by Council Members Pierno, Heselton and Glassman and
Council President Wilson

Legislative Day No. 91-14 Date May 14, 1991

AN ACT to add paragraph c14 to Section 5.02, Information Required, and to repeal and reenact, with amendments, subsection C of Section 5.03, Approval Procedure, all of Article V, The Preliminary Subdivision Plan, of the Subdivision Regulations for Harford County, Maryland; to add subsection B(9.1) to Section 82-2, Modifications, of Article I, Adoption of Standards, of Chapter 82, Building Construction, of the Harford County Code, as amended; to add subsection B(10) to Section 214-3, Application for Permit, and to add subsection D to Section 214-9, Conditions for Issuance of Permit, all of Article I, Sediment Control, of Chapter 214, Sediment Control and Stormwater Management, of the Harford County Code, as amended; to repeal and reenact, without amendments, the definitions of development, business use, industrial use, and institutional use, and to add the definitions of

By the Council, May 14, 1991

Introduced, read first time, ordered posted and public hearing scheduled
on: June 11, 1991

at: 6:00 P.M.

By Order: Doris Paulsen, Secretary

PUBLIC HEARING

Having been posted and notice of time and place of hearing and title of Bill having been published according to the Charter, a public hearing was held on June 11, 1991, and concluded on, June 11, 1991

Doris Paulsen, Secretary

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW. [Brackets] indicate matter deleted from existing law. Underlining indicates language added to Bill by amendment. Language lined through indicates matter stricken out of Bill by amendment.

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clear and clearing, cut, caliper, champion tree, department, diameter at breast height, dripline, intermittent stream, natural regeneration, net tract area, perennial stream, public utility, seedling, selective clearing, tree, urban forestry, and whip, all of Section 267-4, Definitions, of Article I, General Provisions, of Part 1, Standards, of Chapter 267, Zoning, of the Harford County Code, as amended; to add Article VA, Forest and Tree Conservation, to Chapter 267, Zoning, of the Harford County Code, as amended; to establish certain requirements concerning retention of existing forest, afforestation, reforestation, and forest conservation for certain development activities; to establish exemptions to these requirements; to require submission of certain information in connection with certain development activities; to establish certain

By the Council, _____

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procedures and time requirements for review of the information; to establish certain priorities for afforestation, reforestation, retention, and forest conservation; to allow payment of fees in lieu of afforestation, reforestation, and forest conservation in certain situations; to require surety for afforestation ~~and reforestation~~ certain activities; to require the Department of Planning and Zoning to adopt certain regulations; to define certain terms; to establish penalties for violations of this Act; and generally relating to afforestation, reforestation, retention of existing forest, and forest conservation.

By the Council, May 14, 1991

Introduced, read first time, ordered posted and public hearing scheduled

on: _____

at: _____

By Order: _____, Secretary

PUBLIC HEARING

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_____, Secretary

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW. [Brackets] indicate matter deleted from existing law. Underlining indicates language added to Bill by amendment. Language lined through indicates matter stricken out of Bill by amendment.

1 Section 1. Be It Enacted By The County Council of Harford
2 County, Maryland, That paragraph c14 be, and it is hereby, added
3 to Section 5.02, Information Required, and that subsection C be,
4 and it is hereby, added to Section 5.03, Approval Procedure, all
5 of Section V, The Preliminary Subdivision Plan, of the Subdivision
6 Regulations for Harford County, Maryland, to read as follows:
7 Subdivision Regulations for Harford County, Maryland.

8 Section V. The Preliminary Subdivision Plan.

9 5.02 Information Required. At a minimum, the preliminary plan
10 shall include the following items. Additional information may be
11 required because of site-specific conditions.

12 c. Proposed Development.

13 14. A FOREST CONSERVATION PLAN, IF REQUIRED BY
14 CHAPTER 267, ARTICLE VA OF THE HARFORD COUNTY CODE.

15 5.03 Approval Procedure.

16 C. IF A FOREST CONSERVATION PLAN IS REQUIRED BY CHAPTER
17 267, ARTICLE VA OF THE HARFORD COUNTY CODE, THE PRELIMINARY PLAN
18 SHALL NOT BE APPROVED UNTIL THE FOREST CONSERVATION PLAN HAS BEEN
19 APPROVED BY THE DEPARTMENT OF PLANNING AND ZONING.

20 Section 2. And Be It Further Enacted, That subsection B(9.1)
21 be, and it is hereby, added to Section 82-2, Modifications, of
22 Article I, Adoption of Standards, of Chapter 82, Building
23 Construction, that subsection B(10) be, and it is hereby, added to
24 Section 214-3, Application for Permit, of Article I, Sediment
25 Control, of Chapter 214, Sediment Control and Stormwater
26 Management, that subsection D be, and it is hereby, added to
27 Section 214-9, Conditions for Issuance of Permit, of Article I,

1 Sediment Control, of Chapter 214, Sediment Control and Stormwater
2 Management, that the definitions of development, business use,
3 industrial use, and institutional use, of Section 267-4,
4 Definitions, of Article I, General Provisions, of Part 1,
5 Standards, of Chapter 267, Zoning, be, and they are hereby,
6 repealed and reenacted with amendments, that the definitions of
7 clear and clearing, cut, caliper, champion tree, department,
8 diameter at breast height, dripline, intermittent stream, natural
9 regeneration, net tract area, perennial stream, public utility,
10 seedling, selective clearing, tree, urban forestry, and whip be, and
11 they are hereby, added to Section 267-4, Definitions, of Article
12 I, General Provisions, of Part 1, Standards, of Chapter 267,
13 Zoning, and that Article VA, Forest and Tree Conservation, be, and
14 it is hereby, added to Part 1, Standards, of Chapter 267, Zoning,
15 all of the Harford County Code, as amended, to read as follows:

16 Chapter 82. Building Construction.

17 Article I. Adoption of Standards.

18 Section 82-2. Modifications.

19 B. The following subsections refer to sections of the BOCA
20 Basic Building Code and are changes to certain sections of that
21 code.

22 (9.1) A NEW SECTION 114.6 IS ADDED TO READ AS
23 FOLLOWS:

24 114.6 COMPLIANCE WITH FOREST AND TREE CONSERVATION
25 LAW: IF A FOREST CONSERVATION PLAN IS REQUIRED BY
26 CHAPTER 267, ARTICLE VA OF THE HARFORD COUNTY CODE, A

1 PERMIT SHALL NOT BE ISSUED UNTIL THE FOREST CONSERVATION
2 PLAN HAS BEEN APPROVED BY THE DEPARTMENT OF PLANNING AND
3 ZONING.

4 Chapter 214. Sediment Control and Stormwater Management.

5 Article I. Sediment Control.

6 Section 214-3. Application for Permit.

7 B. The plans accompanying the application shall be prepared
8 and certified by a professional engineer or land surveyor,
9 including landscape architects or architect. The Standards and
10 Specifications shall serve as the standards for erosion and
11 sediment control in Harford County for activities other than forest
12 harvest operations. The plans shall contain the following:

13 (10) IF REQUIRED BY CHAPTER 267, ARTICLE VA OF THIS CODE,
14 A FOREST CONSERVATION PLAN.

15 SECTION 214-9. Conditions for Issuance of Permit.

16 D. IF A FOREST CONSERVATION PLAN IS REQUIRED BY CHAPTER 267,
17 ARTICLE VA OF THIS CODE, THE DIRECTOR MAY NOT ISSUE A PERMIT UNTIL
18 A PRELIMINARY FOREST CONSERVATION PLAN HAS BEEN APPROVED BY THE
19 DEPARTMENT OF PLANNING AND ZONING.

20 Chapter 267. Zoning.

21 Part 1. Standards.

22 Article 1. General Provisions.

23 Section 267-4. Definitions.

24 For purposes of this Part 1, the following words and phrases
25 shall have the meanings provided below:

1 CLEAR AND CLEARING - CUTTING OR REMOVING TREES, GROUND
2 COVER, STUMPS, AND ROOTS, INCLUDING THE MOVEMENT OF TOPSOIL PRIOR
3 TO GRADING.

4 CUT - REMOVING TREES WITHOUT REMOVING STUMPS AND ROOTS.

5 CALIPER - THE DIAMETER OF A TREE MEASURED:

6 A. AT 6 INCHES ABOVE GRADE FOR TREES WITH A CALIPER OF
7 4 INCHES OR LESS; AND

8 B. AT 12 INCHES ABOVE GRADE FOR TREES WITH A CALIPER
9 OF MORE THAN 4 INCHES.

10 CHAMPION TREE - THE LARGEST TREE OF ITS SPECIES IN THE
11 UNITED STATES, MARYLAND, OR HARFORD COUNTY, AS APPROPRIATE.

12 DEPARTMENT - THE DEPARTMENT OF PLANNING AND ZONING.

13 Development - The construction, reconstruction, conversion,
14 erection, alteration, relocation, or enlargement of any building
15 or structure; any mining, excavation or landfill; and any land
16 disturbance in preparation for any of the above.

17 DIAMETER AT BREAST HEIGHT (DBH) - THE DIAMETER OF A TREE
18 MEASURED AT 4 1/2 FEET ABOVE GRADE.

19 DRIPLINE - AN IMAGINARY VERTICAL LINE THAT EXTENDS DOWN
20 FROM THE OUTERMOST BRANCHES OF A TREE TO THE GROUND.

21 INTERMITTENT STREAM - A STREAM:

22 A. IN WHICH SURFACE WATER IS ABSENT DURING A PORTION
23 OF THE YEAR;

24 B. THAT IS SHOWN ON THE MOST RECENT 7.5 MINUTE
25 TOPOGRAPHIC QUADRANGLE PUBLISHED BY THE UNITED STATES GEOLOGIC
26 SURVEY; AND

1 C. THAT HAS BEEN CONFIRMED TO BE AN INTERMITTENT STREAM
2 THROUGH FIELD VERIFICATION.

3 NATURAL REGENERATION - THE NATURAL ESTABLISHMENT OF TREES
4 AND OTHER VEGETATION OF A DENSITY OF AT LEAST 400 WOODY, FREE-TO-
5 GROW SEEDLINGS PER ACRE WHICH ARE CAPABLE OF GROWING TO A HEIGHT
6 OF AT LEAST 20 FEET AT MATURITY.

7 NET TRACT AREA - A. IN THE AG ZONING DISTRICT, THE PORTION
8 OF THE PARCEL FOR WHICH LAND USE WILL BE CHANGED OR THAT WILL NO
9 LONGER BE USED PRIMARILY FOR AGRICULTURE, REDUCED BY ANY UNFORESTED
10 AREA WITHIN THE FLOODPLAIN DISTRICT ESTABLISHED UNDER CHAPTER 131
11 OF THIS CODE.

12 B. IN ALL OTHER DISTRICTS, THE TOTAL AREA OF THE PARCEL, TO
13 THE NEAREST ONE-TENTH ACRE, REDUCED BY ANY UNFORESTED AREA WITHIN
14 THE FLOODPLAIN DISTRICT ESTABLISHED UNDER CHAPTER 131 OF THIS CODE.

15 PERENNIAL STREAM - A STREAM:

16 A. CONTAINING SURFACE WATER THROUGHOUT A YEAR OF
17 AVERAGE RAINFALL;

18 B. THAT IS SHOWN ON THE MOST RECENT 7.5 MINUTE
19 TOPOGRAPHIC QUADRANGLE PUBLISHED BY THE UNITED STATES GEOLOGIC
20 SURVEY; AND

21 C. THAT HAS BEEN CONFIRMED TO BE A PERENNIAL STREAM
22 THROUGH FIELD VERIFICATION.

23 PUBLIC UTILITY - A GAS AND ELECTRIC COMPANY REGULATED BY
24 THE MARYLAND PUBLIC SERVICE COMMISSION, A CABLE TELEVISION COMPANY
25 OPERATING UNDER A FRANCHISE GRANTED BY THE COUNTY COUNCIL, OR A
26 TELECOMMUNICATIONS COMPANY.

1 SEEDLING - AN UNBRANCHED WOODY PLANT OF LESS THAN 24
2 INCHES IN HEIGHT AND LESS THAN 1/2 INCH IN DIAMETER AT A POINT 2
3 INCHES ABOVE THE ROOT COLLAR.

4 SELECTIVE CLEARING - THE PLANNED REMOVAL OF TREES, SHRUBS,
5 AND PLANTS USING SPECIFIC STANDARDS AND PROTECTION MEASURES UNDER
6 AN APPROVED FOREST CONSERVATION PLAN.

7 TREE - A LARGE, WOODY PLANT WITH AT LEAST 1 SELF-SUPPORTING
8 TRUNK AND NUMEROUS BRANCHES CAPABLE OF GROWING TO A HEIGHT OF AT
9 LEAST 20 FEET AT MATURITY.

10 URBAN FORESTRY - A SPECIALIZED BRANCH OF FORESTRY CONCERNED
11 WITH THE MANAGEMENT, PROTECTION, AND CONSERVATION OF FOREST, TREES,
12 AND OTHER WOODY VEGETATION IN URBAN AND SEMI-URBAN AREAS.

13 Use, business - Any use listed on Table 1, Principal
14 Permitted Uses, under the categories of amusements, motor vehicle
15 and related services, retail trade, services or transportation,
16 communications and utilities (TCU).

17 Use, industrial - Any use listed on Table I, Principal
18 Permitted Uses, under the categories of industrial uses or
19 warehousing, wholesaling and processing.

20 Use, institutional - Any use listed on Table 1, Principal
21 Permitted Uses, under the category of institutional uses.

22 WHIP - AN UNBRANCHED WOODY PLANT WITH A HEIGHT OF 24 INCHES
23 OR MORE AND A DIAMETER OF LESS THAN 1 INCH AT A POINT 2 INCHES
24 ABOVE THE ROOT COLLAR.

1 ARTICLE VA. FOREST AND TREE CONSERVATION.

2 SECTION 267-30.1. DEFINITIONS.

3 A. IN THIS ARTICLE THE FOLLOWING TERMS HAVE THE MEANINGS
4 INDICATED.

5 B. "AFFORESTATION" MEANS THE CREATION, IN AN AREA THAT IS
6 NOT PRESENTLY IN FOREST COVER, OF A BIOLOGICAL COMMUNITY DOMINATED
7 BY TREES AND OTHER WOODY PLANTS AT A DENSITY OF AT LEAST 100 TREES
8 PER ACRE WITH AT LEAST 50% OF THE TREES HAVING THE CAPABILITY OF
9 GROWING TO A DBH OF 2 INCHES OR MORE WITHIN 7 YEARS.

10 C. "CRITICAL HABITAT AREA" MEANS A HABITAT THAT:

11 (1) IS OCCUPIED BY AN ENDANGERED SPECIES, AS DETERMINED
12 OR LISTED UNDER THE NATURAL RESOURCES ARTICLE, §§4-2A-04 OR 10-
13 2A-04 OF THE ANNOTATED CODE OF MARYLAND;

14 (2) IS LIKELY TO CONTRIBUTE TO THE LONG-TERM SURVIVAL
15 OF THE SPECIES;

16 (3) IS LIKELY TO BE OCCUPIED BY THE SPECIES FOR THE
17 FORESEEABLE FUTURE; AND

18 (4) CONSTITUTES HABITAT DEEMED CRITICAL UNDER THE
19 NATURAL RESOURCES ARTICLE, §10-2A-06 OF THE ANNOTATED CODE OF
20 MARYLAND.

21 D. (1) "FOREST" MEANS A BIOLOGICAL COMMUNITY DOMINATED BY
22 TREES AND OTHER WOODY PLANTS COVERING A LAND AREA OF 10,000 OR MORE
23 SQUARE FEET.

24 (2) "FOREST" INCLUDES:

25 (a) AN AREA HAVING AT LEAST 100 TREES PER ACRE,
26 IF AT LEAST 50% OF THE TREES HAVE A DBH OF 2 INCHES OR MORE; AND

1 (b) FOREST THAT HAS BEEN CUT BUT NOT CLEARED.

2 (3) "FOREST" DOES NOT INCLUDE ORCHARDS.

3 E. "FOREST COVER" MEANS THE AREA OF A PARCEL MEETING THE
4 DEFINITION OF FOREST.

5 F. "FOREST CONSERVATION" MEANS THE RETENTION OF EXISTING
6 FOREST OR THE CREATION OF NEW FOREST.

7 G. "HIGH DENSITY RESIDENTIAL USE" MEANS LAND ZONED FOR
8 DENSITIES OF MORE THAN 1 DWELLING UNIT PER ACRE, INCLUDING BOTH
9 EXISTING AND PLANNED DEVELOPMENT AND THEIR ASSOCIATED
10 INFRASTRUCTURE, SUCH AS ROADS, UTILITIES, AND WATER AND SEWER
11 SERVICE.

12 H. "LOW DENSITY RESIDENTIAL USE" MEANS UNDEVELOPED LAND
13 ZONED FOR DENSITIES OF LESS THAN OR EQUAL TO 1 DWELLING UNIT PER
14 5 ACRES.

15 I. "MEDIUM DENSITY RESIDENTIAL USE" MEANS LAND ZONED FOR A
16 DENSITY OF MORE THAN 1 DWELLING UNIT PER 5 ACRES AND LESS THAN OR
17 EQUAL TO 1 DWELLING UNIT PER ACRE, INCLUDING BOTH EXISTING AND
18 PLANNED DEVELOPMENT AND THEIR ASSOCIATED INFRASTRUCTURE, SUCH AS
19 ROADS, UTILITIES, AND WATER AND SEWER SERVICE.

20 J. "REFORESTATION" MEANS THE CREATION OF A BIOLOGICAL
21 COMMUNITY DOMINATED BY TREES AND OTHER WOODY PLANTS AT A DENSITY
22 OF AT LEAST 100 TREES PER ACRE WITH AT LEAST 50% OF THE TREES
23 HAVING THE CAPABILITY OF GROWING TO A DBH OF 2 INCHES OR MORE
24 WITHIN 7 YEARS.

1 SECTION 267-30.2. APPLICABILITY.

2 A. EXCEPT AS PROVIDED IN SUBSECTION B OF THIS SECTION, THIS
3 ARTICLE APPLIES ~~TO:~~ TO

4 ~~(1) ANY PERSON, INCLUDING THE COUNTY, WHO APPLIES AFTER~~
5 ~~JANUARY 1, 1992, FOR SUBDIVISION APPROVAL, A GRADING PERMIT, OR A~~
6 ~~BUILDING PERMIT FOR AN AREA OF LAND OF 40,000 SQUARE FEET OR MORE;~~
7 MORE. AND

8 ~~(2) ANY PERSON, INCLUDING THE COUNTY, WHO APPLIES AFTER~~
9 ~~JANUARY 1, 1992, FOR SUBDIVISION APPROVAL, A GRADING PERMIT, OR A~~
10 ~~BUILDING PERMIT FOR AN AREA OF LAND MORE THAN 5 YEARS AFTER THE~~
11 ~~AREA HAS BEEN CUT OR CLEARED IN ACCORDANCE WITH AN EXEMPTION UNDER~~
12 ~~SUBSECTIONS B(1)(b) OR B(3) OF THIS SECTION.~~

13 B. THIS ARTICLE DOES NOT APPLY TO:

14 (1) CUTTING OR CLEARING CONDUCTED IN ACCORDANCE WITH A
15 FOREST HARVEST PERMIT ISSUED UNDER CHAPTER 214 OF THIS CODE, IF THE
16 CUTTING OR CLEARING:

17 (a) IS COMPLETED BEFORE JULY 1, 1991; OR

18 (b) IS COMPLETED ON OR AFTER JULY 1, 1991, AND THE
19 PROPERTY ON WHICH THE CUTTING OR CLEARING IS CONDUCTED IS NOT THE
20 SUBJECT OF AN APPLICATION FOR A GRADING PERMIT WITHIN 5 YEARS AFTER
21 THE CUTTING OR CLEARING;

22 (2) CUTTING OR CLEARING IN THE CHESAPEAKE BAY CRITICAL
23 AREA OVERLAY DISTRICT ESTABLISHED UNDER §267-41.1 OF THIS CHAPTER;

24 (3) CUTTING OR CLEARING TO FURTHER AGRICULTURE, IF THE
25 LAND ON WHICH THE CUTTING OR CLEARING IS CONDUCTED IS NOT THE SITE
26 OF DEVELOPMENT WITHIN 5 YEARS AFTER THE CLEARING OR CUTTING;

1 (4) FOREST MANAGEMENT ACTIVITIES CONDUCTED IN ACCORDANCE
2 WITH A FEDERAL, STATE, OR LOCAL FORESTRY OR WOODLAND INCENTIVES
3 PROGRAM;

4 (5) IF CONDUCTED SO AS TO MINIMIZE THE LOSS OF FOREST,
5 CUTTING OR CLEARING OF:

6 (a) PUBLIC UTILITY RIGHTS-OF-WAY; AND

7 (b) LAND FOR AN ELECTRICAL GENERATING STATION
8 APPROVED BY THE PUBLIC SERVICE COMMISSION UNDER ARTICLE 78, §§54A,
9 54B, OR 54I OF THE ANNOTATED CODE OF MARYLAND;

10 (6) ROUTINE MAINTENANCE OF PUBLIC UTILITY RIGHTS-OF-
11 WAY;

12 (7) ANY DEVELOPMENT CONDUCTED ON A SINGLE LOT OF ANY
13 SIZE, IF THE DEVELOPMENT:

14 (a) DOES NOT RESULT IN THE CUTTING, CLEARING, OR
15 GRADING OF MORE THAN 40,000 SQUARE FEET OF FOREST; AND

16 (b) DOES NOT RESULT IN THE CUTTING, CLEARING, OR
17 GRADING OF ANY FOREST THAT IS SUBJECT TO A PREVIOUS FOREST
18 CONSERVATION PLAN PREPARED UNDER THIS ARTICLE;

19 (8) ANY ACTIVITY REQUIRED FOR THE PURPOSE OF
20 CONSTRUCTING A DWELLING FOR THE USE OF THE LANDOWNER, A CHILD OF
21 THE LANDOWNER, OR A GRANDCHILD OF THE LANDOWNER, IF THE ACTIVITY
22 DOES NOT RESULT IN THE CUTTING, CLEARING, OR GRADING OF MORE THAN
23 40,000 SQUARE FEET OF FOREST; AND

24 (9) ANY STRIP OR DEEP MINING OF COAL REGULATED UNDER THE
25 NATURAL RESOURCES ARTICLE, TITLE 7 OF THE ANNOTATED CODE OF
26 MARYLAND, AND ANY NONCOAL SURFACE MINING REGULATED UNDER THE

1 NATURAL RESOURCES ARTICLE, TITLE 7 OF THE ANNOTATED CODE OF
2 MARYLAND.

3 C. IF LAND ON WHICH CUTTING OR CLEARING HAS BEEN CONDUCTED
4 IN ACCORDANCE WITH AN EXEMPTION UNDER SUBSECTIONS B(1)(b) OR B(3)
5 OF THIS SECTION IS DEVELOPED:

6 (1) WITHIN 5 YEARS AFTER THE CUTTING OR CLEARING, THE
7 DEVELOPMENT IS SUBJECT TO THIS ARTICLE AND THE REQUIRED FOREST
8 CONSERVATION SHALL BE CALCULATED BASED ON THE ACREAGE OF FOREST
9 THAT EXISTED BEFORE THE CUTTING OR CLEARING; AND

10 (2) MORE THAN 5 YEARS AFTER THE CUTTING OR CLEARING, THE
11 DEVELOPMENT IS SUBJECT TO THIS ARTICLE AND THE REQUIRED FOREST
12 CONSERVATION SHALL BE CALCULATED BASED ON THE ACREAGE OF FOREST
13 THAT EXISTS AFTER THE CUTTING OR CLEARING.

14 SECTION 267-30.3. GENERAL REQUIREMENTS.

15 A. A PERSON WHO APPLIES AFTER JANUARY 1, 1992, FOR
16 SUBDIVISION APPROVAL, A GRADING PERMIT, OR A BUILDING PERMIT FOR
17 AN AREA OF LAND OF 40,000 SQUARE FEET OR MORE:

18 (1) SHALL SUBMIT TO THE DEPARTMENT:

19 (a) A FOREST STAND DELINEATION FOR THE LOT OR
20 PARCEL ON WHICH THE DEVELOPMENT IS LOCATED; AND

21 (b) A FOREST CONSERVATION PLAN FOR THE LOT OR
22 PARCEL ON WHICH THE DEVELOPMENT IS LOCATED;

23 (2) SHALL NOT, UNLESS GRANTED AN EXEMPTION BY THE
24 DEPARTMENT, PERFORM ANY CONSTRUCTION ACTIVITY IN THE DRIPLINE OF
25 A TREE THAT IS TO BE RETAINED; AND

AS AMENDED

1 (3) SHALL USE METHODS APPROVED BY THE DEPARTMENT TO
2 PROTECT RETAINED TREES DURING CONSTRUCTION.

3 B. NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, THE
4 DEPARTMENT OF PUBLIC WORKS SHALL PLANT AT LEAST ONE TREE FOR EVERY
5 TWO TREES OF A DBH OF 8 INCHES OR MORE THAT IT CUTS OR CLEARS AS
6 PART OF A PROJECT TO WIDEN A COUNTY ROAD.

7 C. WHEN PLANTING TREES IN ACCORDANCE WITH SUBSECTION B OF
8 THIS SECTION, THE DEPARTMENT OF PUBLIC WORKS SHALL MEET THE
9 FOLLOWING CRITERIA:

10 (1) THE TREES PLANTED SHALL:

11 (a) HAVE AT MATURITY APPROXIMATELY THE SAME AREA
12 OF CANOPY AS THE TREES THAT WERE CUT OR CLEARED; AND

13 (b) HAVE A CALIPER OF AT LEAST 1-1/2 INCHES;

14 (2) THE TREES SHALL BE PLANTED:

15 (a) IF FEASIBLE, ON THE SITE OR IN THE RIGHT-OF-
16 WAY USED FOR THE PROJECT; OR

17 (b) IF THE OWNER OF THE ABUTTING PROPERTY REQUESTS,
18 ON PROPERTY THAT ABUTS THE SITE OR THE RIGHT-OF-WAY USED FOR THE
19 PROJECT;

20 (3) THE TREES SHALL BE OF THE SAME SPECIES AS THOSE CUT
21 OR CLEARED IF:

22 (a) THE OWNER OF THE ABUTTING PROPERTY SO REQUESTS;
23 AND

24 (b) THEY ARE PLANTED ON ABUTTING PROPERTY;

25 (4) IF THE OWNER OF THE ABUTTING PROPERTY REQUESTS, THE
26 DEPARTMENT OF PUBLIC WORKS SHALL PAY THE OWNER A FEE IN AN AMOUNT

AS AMENDED

1 EQUAL TO THE COST OF THE TREES THAT WOULD HAVE BEEN PLANTED ON THE
2 ABUTTING PROPERTY UNDER THIS SECTION, AND PAYMENT OF THE FEE
3 RELIEVES THE DEPARTMENT OF PUBLIC WORKS OF THE DUTY TO PLANT THE
4 TREES.

5 SECTION 267-30.4. FOREST STAND DELINEATION.

6 A. A FOREST STAND DELINEATION SHALL BE SUBMITTED BEFORE A
7 PRELIMINARY SUBDIVISION PLAN, A GRADING PERMIT APPLICATION, OR A
8 BUILDING PERMIT APPLICATION IS SUBMITTED FOR THE LOT OR PARCEL
9 BEING DEVELOPED.

10 B. ~~EXCEPT AS PROVIDED IN SUBSECTION C OF THIS SECTION,~~ THE
11 DELINEATION SHALL BE PREPARED BY A LICENSED ~~FORESTER OR~~ FORESTER,
12 LICENSED LANDSCAPE ~~ARCHITECT~~ ARCHITECT, OR OTHER PROFESSIONAL
13 APPROVED BY THE DEPARTMENT.

14 ~~C. THE DELINEATION MAY BE PREPARED BY ANOTHER PROFESSIONAL~~
15 ~~APPROVED BY THE DEPARTMENT IF THE DELINEATION HAS BEEN REVIEWED AND~~
16 ~~APPROVED BY A LICENSED FORESTER OR A LICENSED LANDSCAPE ARCHITECT.~~

17 ~~D.~~ C. THE DELINEATION SHALL INCLUDE:

18 (a) A TOPOGRAPHIC MAP DELINEATING INTERMITTENT AND
19 PERENNIAL STREAMS, AND STEEP SLOPES OVER 25%;

20 (b) A SOILS MAP DELINEATING SOILS WITH STRUCTURAL
21 LIMITATIONS, HYDRIC SOILS, AND SOILS WITH A SOIL K VALUE GREATER
22 THAN 0.35 ON SLOPES OF 15% OR MORE;

23 (c) FOREST STAND MAPS INDICATING SPECIES, LOCATION,
24 AND SIZE OF TREES, AND SHOWING DOMINANT AND CODOMINANT FOREST
25 TYPES; AND

(d) ANY OTHER INFORMATION REQUIRED BY THE
DEPARTMENT.

~~E.~~ D. (1) WITHIN 30 CALENDAR DAYS AFTER RECEIPT OF THE FOREST
STAND DELINEATION, THE DEPARTMENT SHALL NOTIFY THE APPLICANT
WHETHER THE FOREST STAND DELINEATION IS COMPLETE AND CORRECT.

(2) IF THE DEPARTMENT FAILS TO NOTIFY THE APPLICANT
WITHIN 30 CALENDAR DAYS THE DELINEATION SHALL BE TREATED AS
COMPLETE AND CORRECT.

(3) THE DEPARTMENT MAY REQUIRE FURTHER INFORMATION OR
EXTEND THE DEADLINE FOR AN ADDITIONAL 15 CALENDAR DAYS UNDER
EXTENUATING CIRCUMSTANCES.

SECTION 267-30.5. FOREST CONSERVATION PLAN.

A. ~~EXCEPT AS PROVIDED IN SUBSECTION B OF THIS SECTION, A~~
FOREST CONSERVATION PLAN SHALL BE PREPARED BY A LICENSED FORESTER
FORESTER, OR A LICENSED LANDSCAPE ARCHITECT ARCHITECT, OR OTHER
PROFESSIONAL APPROVED BY THE DEPARTMENT.

~~B. THE FOREST CONSERVATION PLAN MAY BE PREPARED BY ANOTHER~~
~~PROFESSIONAL APPROVED BY THE DEPARTMENT IF THE PLAN HAS BEEN~~
~~REVIEWED AND APPROVED BY A LICENSED FORESTER OR A LICENSED~~
~~LANDSCAPE ARCHITECT.~~

~~C.~~ B. A FOREST CONSERVATION PLAN SHALL:

(1) BE SUBMITTED WITH THE FIRST OF THE FOLLOWING
SUBMITTED FOR THE SITE:

- (a) A PRELIMINARY SUBDIVISION PLAN;
- (b) AN APPLICATION FOR A GRADING PERMIT; OR
- (c) AN APPLICATION FOR A BUILDING PERMIT;

AS AMENDED

(2) INCLUDE A MAP OF THE SITE DRAWN AT THE SAME SCALE
AS THE GRADING OR SUBDIVISION PLAN;

(3) INCLUDE A TABLE THAT LISTS, IN SQUARE FEET;

(a) THE NET TRACT AREA;

(b) THE TOTAL AREA OF FOREST CONSERVATION REQUIRED;

AND

(c) THE TOTAL AREA OF FOREST CONSERVATION THAT THE
APPLICANT PROPOSES TO PROVIDE, INCLUDING BOTH ON-SITE AND OFF-SITE
AREAS;

(4) INCLUDE A CLEAR GRAPHIC INDICATION OF THE FOREST
CONSERVATION PROVIDED ON THE SITE, SHOWING AREAS WHERE RETENTION
OF EXISTING FOREST OR AFFORESTATION IS PLANNED;

(5) INCLUDE A CONSTRUCTION TIMETABLE INDICATING THE
PHASING OF THE PROJECT AND SHOWING THE SEQUENCE FOR TREE
CONSERVATION PROCEDURES;

(6) INCLUDE AN AFFORESTATION AND REFORESTATION PLAN WITH
A PROPOSED SCHEDULE AND DESCRIPTION OF NEEDED SITE AND SOIL
PREPARATION, SPECIES, SIZE, AND SPACING TO BE UTILIZED;

(7) SHOW LOCATIONS AND TYPES OF PROTECTIVE DEVICES TO
BE USED DURING CONSTRUCTION ACTIVITIES TO PROTECT TREES AND AREAS
OF FOREST DESIGNATED FOR CONSERVATION;

(8) SHOW THE PLANNED LIMITS OF DISTURBANCE;

(9) SHOW PLANNED STOCKPILE AREAS;

(10) INCORPORATE A COMMITMENT TO COMPLETE ALL REQUIRED
AFFORESTATION AND REFORESTATION ~~WITHIN 1 YEAR AFTER PROJECT~~
~~COMPLETION, OR WITHIN 2 GROWING SEASONS AFTER PROJECT COMPLETION~~

1 ~~IF A PARTICULAR SPECIES IN THE PLAN NECESSITATES IT~~ IN ACCORDANCE
2 WITH THE SCHEDULE ESTABLISHED BY THE DEPARTMENT IN THE APPROVED
3 FOREST CONSERVATION PLAN;

4 (11) INCORPORATE A BINDING 2-YEAR MANAGEMENT AGREEMENT
5 THAT DETAILS HOW THE AREAS DESIGNATED FOR AFFORESTATION OR
6 REFORESTATION WILL BE MAINTAINED TO INSURE PROTECTION OR
7 SATISFACTORY ESTABLISHMENT, INCLUDING:

8 (a) WATERING; AND

9 (b) REINFORCEMENT PLANTING PROVISIONS IF SURVIVAL
10 RATES FALL BELOW REQUIRED STANDARDS;

11 (12) INCLUDE ANY PLAN FOR ~~SHADE~~ INDIVIDUAL TREE PLANTINGS
12 PROPOSED UNDER §267-30.10 OF THIS ARTICLE;

13 (13) INCORPORATE A BINDING PROTECTIVE AGREEMENT THAT:

14 (a) PROVIDES PROTECTION FOR AREAS OF FOREST
15 CONSERVATION, INCLUDING AREAS OF AFFORESTATION, REFORESTATION,
16 RETENTION, AND ~~SHADE~~ INDIVIDUAL TREE PLANTINGS;

17 (b) LIMITS USES IN AREAS OF FOREST CONSERVATION TO
18 THOSE USES THAT ARE CONSISTENT WITH FOREST CONSERVATION, INCLUDING
19 RECREATIONAL ACTIVITIES AND ANY FOREST MANAGEMENT PRACTICE THAT IS
20 USED TO PRESERVE FOREST; AND

21 (c) INCORPORATES CONSERVATION EASEMENTS, DEED
22 RESTRICTIONS, COVENANTS, AND OTHER AGREEMENTS AS NECESSARY; AND

23 (14) ANY OTHER INFORMATION THE DEPARTMENT REQUIRES.

24 ~~D. C.~~ (1) WITHIN 45 CALENDAR DAYS AFTER RECEIPT OF THE
25 FOREST CONSERVATION PLAN, THE DEPARTMENT SHALL NOTIFY THE APPLICANT
26 WHETHER THE FOREST CONSERVATION PLAN IS COMPLETE AND APPROVED.

1 (2) IF THE DEPARTMENT FAILS TO NOTIFY THE APPLICANT
2 WITHIN 45 CALENDAR DAYS, THE PLAN SHALL BE TREATED AS COMPLETE AND
3 APPROVED.

4 (3) THE DEPARTMENT MAY REQUIRE FURTHER INFORMATION OR
5 EXTEND THE DEADLINE FOR AN ADDITIONAL 15 CALENDAR DAYS UNDER
6 EXTENUATING CIRCUMSTANCES.

7 (4) AT THE REQUEST OF THE APPLICANT, THE DEPARTMENT MAY
8 EXTEND THE DEADLINE UNDER EXTENUATING CIRCUMSTANCES.

9 ~~E.~~ D. THE DEPARTMENT'S REVIEW OF A FOREST CONSERVATION
10 PLAN SHALL BE CONCURRENT WITH THE REVIEW OF THE SUBDIVISION PLAN,
11 GRADING PERMIT APPLICATION, OR BUILDING PERMIT APPLICATION
12 ASSOCIATED WITH THE PROJECT.

13 ~~F.~~ E. A PERSON PROPOSING THE DEVELOPMENT OF 5 OR FEWER
14 LOTS FROM A PARCEL MAY SUBMIT AN ABBREVIATED FOREST CONSERVATION
15 PLAN IN A FORM AND CONTENT APPROVED BY THE DEPARTMENT.

16 ~~G.~~ F. BY DECEMBER 31, 1991, THE DEPARTMENT SHALL ADOPT
17 REGULATIONS ESTABLISHING THE FORM AND CONTENT FOR ABBREVIATED
18 FOREST CONSERVATION PLANS FOR THE DEVELOPMENT OF 5 OR FEWER LOTS.

19 ~~H.~~ G. THE DEPARTMENT MAY REVOKE AN APPROVED FOREST
20 CONSERVATION PLAN IF IT FINDS THAT:

21 (1) ANY PROVISION OF THE PLAN HAS BEEN VIOLATED;

22 (2) APPROVAL OF THE PLAN WAS OBTAINED THROUGH FRAUD,
23 MISREPRESENTATION, A FALSE OR MISLEADING STATEMENT, OR OMISSION OF
24 A RELEVANT OR MATERIAL FACT; OR

25 (3) CHANGES IN THE DEVELOPMENT OR IN THE CONDITION OF
26 THE SITE NECESSITATE PREPARATION OF A NEW OR AMENDED PLAN.

1 ~~I. (1) PRIOR TO REVOKING APPROVAL OF A FOREST CONSERVATION~~
2 ~~PLAN UNDER SUBSECTION F OF THIS SECTION, THE DEPARTMENT SHALL:~~

3 ~~(a) NOTIFY THE PERSON FOR WHOM THE PLAN WAS APPROVED;~~
4 ~~(b) STATE THE REASONS FOR THE PROPOSED REVOCATIONS; AND~~
5 ~~(c) PROVIDE AN OPPORTUNITY FOR A HEARING BEFORE THE~~
6 ~~DIRECTOR OF ADMINISTRATION TO CONTEST THE PROPOSED REVOCATION.~~

7 ~~(2) THE PROPOSED REVOCATION IS FINAL IF A HEARING IS NOT~~
8 ~~REQUESTED WITHIN 14 CALENDAR DAYS OF NOTIFICATION OF THE~~
9 ~~OPPORTUNITY FOR A HEARING.~~

10 ~~(3) THE DIRECTOR OF ADMINISTRATION MAY AFFIRM, MODIFY,~~
11 ~~OR REVERSE THE PROPOSED REVOCATION.~~

12 I. H. IN REVOKING AN APPROVED FOREST CONSERVATION PLAN UNDER
13 SUBSECTION H OF THIS SECTION, THE DEPARTMENT SHALL FOLLOW THE
14 PROCEDURE FOR REVOCATION OF ZONING CERTIFICATES THAT IS SET FORTH
15 IN § 167-8E OF THIS CHAPTER.

16 ~~(4) NOTIFICATION BY PERSONAL SERVICE OR CERTIFIED LETTER~~
17 ~~TO THE LAST ADDRESS ON FILE WITH THE DEPARTMENT IS SUFFICIENT~~
18 ~~NOTICE UNDER THIS SECTION. FAILURE TO APPEAR AT A HEARING, AFTER~~
19 ~~NOTICE, IS A WAIVER OF THE RIGHT TO A HEARING.~~

20 J. I. IF A FOREST CONSERVATION PLAN IS REQUIRED BY THIS
21 ARTICLE, A PERSON MAY NOT CUT, CLEAR, OR GRADE ON THE DEVELOPMENT
22 SITE:

23 (1) UNTIL THE DEPARTMENT HAS APPROVED THE PLAN; OR

24 (2) IN VIOLATION OF THE APPROVED PLAN.

SECTION 267-30.6. RETENTION AND AFFORESTATION.

A. A PERSON WHO APPLIES AFTER JANUARY 1, 1992, FOR SUBDIVISION APPROVAL, A GRADING PERMIT, OR A BUILDING PERMIT FOR AN AREA OF LAND OF 40,000 SQUARE FEET OR MORE:

(1) SHALL CONDUCT AFFORESTATION ON THE LOT OR PARCEL IN ACCORDANCE WITH THE FOLLOWING:

(a) FOR THE FOLLOWING LAND USE CATEGORIES, A SITE WITH LESS THAN 20% OF ITS NET TRACT AREA IN FOREST COVER SHALL BE AFFORESTED UP TO AT LEAST 20% OF THE NET TRACT AREA:

(i) NATURAL RESOURCES;

(ii) MEDIUM DENSITY RESIDENTIAL USES; AND

(iii) LOW DENSITY RESIDENTIAL USES; AND

(b) FOR THE FOLLOWING LAND USE CATEGORIES, A SITE WITH LESS THAN 15% OF ITS NET TRACT AREA IN FOREST COVER SHALL BE AFFORESTED UP TO AT LEAST 15% OF THE NET TRACT AREA:

(i) BUSINESS USES;

(ii) INDUSTRIAL USES;

(iii) INSTITUTIONAL USES; AND

(iv) HIGH DENSITY RESIDENTIAL USES; AND

(2) SHALL RETAIN AT LEAST THE FOLLOWING MINIMUM PERCENTAGES OF THE EXISTING FOREST ON THE LOT OR PARCEL:

TYPE OF USE	MINIMUM PERCENTAGE OF FOREST TO BE RETAINED
NATURAL RESOURCES AND LOW DENSITY RESIDENTIAL USES	50%

1	MEDIUM DENSITY	40%
2	RESIDENTIAL USES	
3	INSTITUTIONAL USES	30%
4	HIGH DENSITY	
5	RESIDENTIAL USES	30%
6	BUSINESS AND INDUSTRIAL USES	15%

7 B. SUBSECTION A(2) OF THIS SECTION DOES NOT APPLY TO THE
8 DEVELOPMENT OF A WATER LINE, A SEWER LINE, OR A SANITARY LANDFILL.

9 C. THE FOLLOWING TREES, SHRUBS, PLANTS, AND SPECIFIC AREAS
10 SHALL BE CONSIDERED PRIORITY FOR RETENTION AND PROTECTION AND SHALL
11 BE LEFT IN AN UNDISTURBED CONDITION UNLESS THE APPLICANT HAS
12 DEMONSTRATED, TO THE SATISFACTION OF THE DEPARTMENT, THAT
13 REASONABLE EFFORTS HAVE BEEN MADE TO PROTECT THEM AND THE PLAN
14 CANNOT BE REASONABLY ALTERED:

15 (1) TREES, SHRUBS, AND PLANTS LOCATED IN SENSITIVE
16 AREAS, INCLUDING THE FLOODPLAIN DISTRICT ESTABLISHED UNDER CHAPTER
17 131 OF THIS CODE, INTERMITTENT AND PERENNIAL STREAMS AND THEIR
18 BUFFERS, STEEP SLOPES, AND CRITICAL HABITAT AREAS;

19 (2) CONTIGUOUS FOREST THAT CONNECTS THE LARGEST
20 UNDEVELOPED OR MOST VEGETATED TRACTS OF LAND WITHIN AND ADJACENT
21 TO THE SITE;

22 (3) TREES, SHRUBS, OR PLANTS IDENTIFIED ON THE LIST OF
23 RARE, THREATENED, AND ENDANGERED SPECIES OF THE UNITED STATES FISH
24 AND WILDLIFE SERVICE OR THE STATE DEPARTMENT OF NATURAL RESOURCES;

25 (4) TREES THAT:

26 (a) ARE PART OF A HISTORIC SITE;

1 (b) ARE ASSOCIATED WITH A HISTORIC STRUCTURE; OR
2 (c) HAVE BEEN DESIGNATED BY THE STATE OR THE
3 DEPARTMENT AS A NATIONAL, STATE, OR COUNTY CHAMPION TREE; AND

4 (5) TREES HAVING A DBH OF:

5 (a) ~~30~~ 24 INCHES OR MORE; OR

6 (b) 75% OF THE DBH OF THE CURRENT STATE CHAMPION
7 TREE OF THAT SPECIES.

8 D. SUBSECTION C OF THIS SECTION DOES NOT REQUIRE RETENTION
9 OF:

10 (1) A TREE THAT IS DEAD OR DISEASED;

11 (2) A TREE THAT HAS BEEN SUBSTANTIALLY DAMAGED THROUGH
12 NATURAL CAUSES AND IS NOT EXPECTED TO SURVIVE; OR

13 (3) UNLESS IT IS LOCATED IN AN AREA OF FOREST TO BE
14 RETAINED, A NON-CHAMPION TREE WITH A DBH OF 30 INCHES OR MORE.

15 SECTION 267-30.7. REFORESTATION.

16 A. THERE IS A FOREST CONSERVATION THRESHOLD
17 ESTABLISHED FOR EACH LAND USE CATEGORY, AS PROVIDED IN SUBSECTION
18 B OF THIS SECTION. THE FOREST CONSERVATION THRESHOLD MEANS THE
19 PERCENTAGE OF THE NET TRACT AREA AT WHICH THE REFORESTATION
20 REQUIREMENT CHANGES FROM A RATIO OF 1/4 ACRE PLANTED FOR EVERY
21 ACRE REMOVED TO A RATIO OF 2 ACRES PLANTED FOR EVERY ACRE REMOVED.

22 B. AFTER EVERY REASONABLE EFFORT TO MINIMIZE THE
23 CUTTING OR CLEARING OF TREES AND OTHER WOODY PLANTS IS EXHAUSTED
24 IN THE DEVELOPMENT OF A SUBDIVISION PLAN AND GRADING AND SEDIMENT
25 CONTROL ACTIVITIES AND IMPLEMENTATION OF THE FOREST CONSERVATION
26 PLAN, THE FOREST CONSERVATION PLAN SHALL PROVIDE FOR REFORESTATION,

OR PAYMENT INTO THE FOREST CONSERVATION ACCOUNT, ACCORDING TO THE
FORMULA SET FORTH IN SUBSECTION C OF THIS SECTION AND CONSISTENT
WITH THE FOLLOWING FOREST CONSERVATION THRESHOLD FOR THE APPLICABLE
LAND USE CATEGORY:

CATEGORY OF USE	THRESHOLD PERCENTAGE
NATURAL RESOURCES USES	50%
LOW DENSITY AND MEDIUM DENSITY RESIDENTIAL USES	40%
INSTITUTIONAL USES	30%
HIGH DENSITY RESIDENTIAL USES	30%
BUSINESS AND INDUSTRIAL USES	15%

C. (1) IF THE PERCENTAGE OF FOREST COVER
REMAINING ON THE NET TRACT AREA AFTER CUTTING AND CLEARING ARE
COMPLETED EQUALS OR EXCEEDS THE THRESHOLD ESTABLISHED BY THIS
SECTION, THE SITE SHALL BE REFORESTED AT A RATIO OF 1/4 ACRE
PLANTED FOR EVERY ACRE REMOVED.

(2) EACH ACRE OF FOREST RETAINED ON THE NET TRACT
AREA ABOVE THE THRESHOLD SHALL BE CREDITED AGAINST THE TOTAL NUMBER
OF ACRES REQUIRED TO BE REFORESTED UNDER PARAGRAPH (1) OF THIS
SUBSECTION.

(3) IF THE PERCENTAGE OF FOREST COVER REMAINING ON
THE NET TRACT AREA AFTER CUTTING AND CLEARING ARE COMPLETED IS LESS
THAN THE THRESHOLD ESTABLISHED BY THIS SECTION, THE SITE SHALL BE
REFORESTED AT A RATIO OF 2 ACRES PLANTED FOR EVERY ACRE REMOVED.

~~D. A PERSON REQUIRED TO REFOREST AT THE RATIO ESTABLISHED
BY SUBSECTION C(3) OF THIS SECTION MAY COMPLETE REFORESTATION AT~~

~~THE RATIO ESTABLISHED BY SUBSECTION C(1) OF THIS SECTION IF, DURING
THE COURSE OF REFORESTATION, THE SITE REACHES THE THRESHOLD
ESTABLISHED BY SUBSECTION B OF THIS SECTION.~~

SECTION 267-30.8. PRIORITIES AND TIME REQUIREMENTS FOR
AFFORESTATION AND REFORESTATION.

A. THE REQUIRED SEQUENCE FOR FOREST CONSERVATION, AFTER
TECHNIQUES FOR RETAINING EXISTING FOREST ON THE SITE HAVE BEEN
EXHAUSTED, IS AS FOLLOWS:

(1) SELECTIVE CLEARING AND SUPPLEMENTAL PLANTING ON
SITE;

(2) ON-SITE AFFORESTATION, IF ECONOMICALLY FEASIBLE,
USING TRANSPLANTED OR NURSERY STOCK THAT IS GREATER THAN 1 1/2
INCHES DBH;

(3) ON-SITE AFFORESTATION USING WHIP AND SEEDLING STOCK;

(4) ON-SITE INDIVIDUAL TREE PLANTINGS CONDUCTED IN
ACCORDANCE WITH §267-30.10 OF THIS ARTICLE;

~~(4)~~ (5) LANDSCAPING OF AREAS UNDER A LANDSCAPING PLAN
THAT ESTABLISHES A FOREST THAT IS AT LEAST 35 FEET WIDE AND COVERS
AT LEAST 2,500 SQUARE FEET OF AREA;

~~(5)~~ (6) OFF-SITE AFFORESTATION USING TRANSPLANTED OR
NURSERY STOCK THAT IS GREATER THAN 1 1/2 INCHES DBH;

~~(6)~~ (7) OFF-SITE AFFORESTATION USING WHIP AND SEEDLING
STOCK;

~~(7)~~ (8) NATURAL REGENERATION ON-SITE; AND

~~(8)~~ (9) NATURAL REGENERATION OFF-SITE.

1 B. A SEQUENCE OTHER THAN THE ONE DESCRIBED IN SUBSECTION A
2 OF THIS SECTION MAY BE USED FOR A SPECIFIC PROJECT IF NECESSARY
3 TO ACHIEVE THE OBJECTIVES OF THE COUNTY LAND USE PLAN OR COUNTY
4 LAND USE POLICIES OR TO TAKE ADVANTAGE OF OPPORTUNITIES TO
5 CONSOLIDATE FOREST CONSERVATION EFFORTS.

6 C. THE FOLLOWING ARE PRIORITIES FOR REESTABLISHMENT:

7 (1) FOREST BUFFERS ADJACENT TO INTERMITTENT AND
8 PERENNIAL STREAMS, TO WIDTHS OF AT LEAST 50 FEET;

9 (2) FOREST CORRIDORS CONNECTING EXISTING FORESTS WITHIN
10 OR ADJACENT TO THE SITE, TO WIDTHS OF AT LEAST 300 FEET WHERE
11 POSSIBLE;

12 (3) FOREST BUFFERS ADJACENT TO CRITICAL HABITAT AREAS;

13 (4) PLANTINGS TO STABILIZE SLOPES OF 25% OR GREATER AND
14 SLOPES OF 15% OR GREATER WITH A SOIL K VALUE GREATER THAN 0.35,
15 INCLUDING THE SLOPES OF RAVINES OR OTHER NATURAL DEPRESSIONS;

16 (5) PLANTINGS IN THE NATURAL RESOURCES DISTRICT
17 ESTABLISHED UNDER §267-41 OF THIS CHAPTER;

18 (6) BUFFERS ADJACENT TO AREAS OF DIFFERING LAND USE,
19 WHERE APPROPRIATE, OR ADJACENT TO HIGHWAYS OR UTILITY RIGHTS-OF-
20 WAY; AND

21 (7) FORESTED AREAS ADJACENT TO EXISTING FORESTS SO AS
22 TO INCREASE THE OVERALL AREA OF CONTIGUOUS FOREST COVER, WHEN
23 APPROPRIATE.

24 D. A PERSON REQUIRED TO CONDUCT AFFORESTATION OR
25 REFORESTATION UNDER THIS ARTICLE SHALL ACCOMPLISH THE AFFORESTATION
26 OR REFORESTATION IN ACCORDANCE WITH THE SCHEDULE ESTABLISHED BY THE

1 DEPARTMENT IN THE APPROVED FOREST CONSERVATION PLAN. THE
2 DEPARTMENT SHALL ENSURE THAT THE SCHEDULE IS STRUCTURED TO:

3 (1) REQUIRE COMPLETION OF THE AFFORESTATION OR
4 REFORESTATION WITHIN 2 YEARS;

5 ~~(1)~~ (2) PROVIDE AN OPTIMUM OPPORTUNITY FOR SUCCESSFUL
6 AFFORESTATION; AND

7 ~~(2)~~ (3) AVOID DELAY TO DEVELOPMENT AND CONSTRUCTION
8 ~~ACTIVITIES.~~ ACTIVITIES; AND

9 (4) TAKE INTO CONSIDERATION THE PHASING OF THE
10 DEVELOPMENT PROJECT.

11 ~~E. A PERSON REQUIRED TO CONDUCT REFORESTATION UNDER THIS~~
12 ~~ARTICLE SHALL ACCOMPLISH THE REFORESTATION WITHIN 1 YEAR OR 2~~
13 ~~GROWING SEASONS AFTER THE CUTTING OR CLEARING OF TREES IS~~
14 ~~COMPLETED.~~

15 SECTION 267-30.9. PAYMENT IN LIEU OF AFFORESTATION AND
16 REFORESTATION.

17 A. IF A PERSON REQUIRED TO CONDUCT AFFORESTATION OR
18 REFORESTATION UNDER THIS ARTICLE DEMONSTRATES TO THE SATISFACTION
19 OF THE DEPARTMENT THAT REFORESTATION OR AFFORESTATION ON-SITE OR
20 OFF-SITE CANNOT BE REASONABLY ACCOMPLISHED, THE PERSON SHALL
21 CONTRIBUTE MONEY AT A RATE OF ~~15~~ 40 CENTS PER SQUARE FOOT OF THE
22 AREA OF REQUIRED PLANTING TO THE COUNTY.

23 B. MONEY CONTRIBUTED IN LIEU OF AFFORESTATION OR
24 REFORESTATION UNDER THIS SUBSECTION SHALL BE PAID WITHIN 90
25 CALENDAR DAYS AFTER ISSUANCE OF THE GRADING PERMIT OR BUILDING
26 PERMIT FOR THE DEVELOPMENT PROJECT, WHICHEVER OCCURS FIRST.

1 C. THE COUNTY SHALL ACCOMPLISH THE REFORESTATION OR
2 AFFORESTATION FOR WHICH THE MONEY IS DEPOSITED WITHIN 3 YEARS OR
3 ~~6 GROWING SEASONS~~ AFTER RECEIPT OF THE MONEY.

4 D. MONEY CONTRIBUTED UNDER THIS SECTION SHALL REMAIN IN THE
5 ACCOUNT FOR A PERIOD OF 3 YEARS, AND AT THE END OF THAT TIME ANY
6 PORTION THAT HAS NOT BEEN USED TO MEET THE REFORESTATION
7 REQUIREMENTS SHALL BE RETURNED TO THE PERSON WHO PROVIDED THE
8 MONEY.

9 E. MONEY CONTRIBUTED UNDER THIS SECTION:

10 (1) MAY BE USED ONLY FOR REFORESTATION AND
11 AFFORESTATION, INCLUDING SITE IDENTIFICATION, ACQUISITION, AND
12 PREPARATION;

13 (2) SHALL BE DEPOSITED IN A SEPARATE FOREST CONSERVATION
14 ACCOUNT; AND

15 (3) SHALL NOT REVERT TO THE GENERAL FUND.

16 SECTION 267-30.10. ~~CREDIT FOR SHADE~~ INDIVIDUAL TREE PLANTINGS.

17 ~~A. A PERSON PROPOSING A DEVELOPMENT WITH A DENSITY OF 2 OR~~
18 ~~MORE DWELLING UNITS PER ACRE MAY SUBSTITUTE SHADE TREE PLANTINGS~~
19 ~~IN THE DEVELOPMENT FOR UP TO 50% OF THE AFFORESTATION AND~~
20 ~~REFORESTATION REQUIRED BY THIS ARTICLE, IN ACCORDANCE WITH THIS~~
21 ~~SECTION.~~

22 ~~B. TO QUALIFY FOR SUBSTITUTION UNDER THIS SECTION, SHADE~~
23 ~~TREE PLANTINGS SHALL INCLUDE:~~

24 ~~(1) A MINIMUM TOTAL OF:~~

25 ~~(a) 1 TREE FOR EVERY 20 FEET OF LOT FRONTAGE OR 20~~
26 ~~LINEAR FEET OF STREET IN THE DEVELOPMENT; AND~~

1 ~~(b) 1 TREE FOR EVERY 3,000 SQUARE FEET OF LOT AREA,~~
2 AND

3 ~~(2) TREES THAT HAVE A CALIPER OF AT LEAST 1 1/2 INCHES.~~

4 A. INDIVIDUAL TREE PLANTINGS CONDUCTED IN ACCORDANCE WITH
5 §267-30.8A OF THIS ARTICLE SHALL BE CREDITED TOWARDS THE REMAINING
6 FOREST CONSERVATION REQUIREMENT AT A RATE OF TWICE THE SQUARE
7 FOOTAGE OF THE AREA OF MATURE CANOPY OF THE INDIVIDUAL TREES
8 PLANTED.

9 B. TO QUALIFY FOR A CREDIT UNDER THIS SECTION, THE PLANTINGS
10 SHALL:

11 (1) BE CONDUCTED IN ACCORDANCE WITH A LANDSCAPING PLAN
12 SUBMITTED WITH THE FOREST CONSERVATION PLAN;

13 (2) BE CONDUCTED IN AREAS PROTECTED IN ACCORDANCE WITH
14 §267-30.5C.(13) OF THIS ARTICLE; AND

15 (3) INCLUDE TREES OF A CALIPER OF AT LEAST 1 1/2 INCHES.

16 C. THE LANDSCAPING PLAN SHALL INCLUDE:

17 (1) A LIST OF THE PROPOSED TREE SPECIES TO BE UTILIZED;

18 (2) THE NUMBER OF TREES TO BE PLANTED;

19 (3) A CALCULATION OF THE SQUARE FOOTAGE OF THE MATURE
20 CANOPY OF THE TREES; AND

21 (4) AN OVERLAY SHOWING THE LOCATION OF THE TREES ON THE
22 PRELIMINARY SUBDIVISION PLAN OR THE CONCEPT PLAN.

23 e D. THE LOCATION, SPACING, AND SPECIES OF TREES PLANTED IN
24 ACCORDANCE WITH THIS SECTION SHALL BE AS APPROVED BY THE DEPARTMENT
25 IN THE FOREST CONSERVATION PLAN PLAN, AND THE DEPARTMENT SHALL
26 ENCOURAGE PLANTINGS ALONG STREETS, BETWEEN BUILDINGS, IN PARKING

1 LOTS, AND IN OTHER COMMON-AREA SITES WHERE THE PLANTINGS MAY
2 PROVIDE BUFFERING, ENERGY CONSERVATION, AND OTHER ENVIRONMENTAL
3 BENEFITS.

4 ~~D~~ E. PLANTING UNDER THIS SECTION SHALL BE CONDUCTED IN
5 ACCORDANCE WITH URBAN FORESTRY STANDARDS RECOGNIZED BY THE FORESTRY
6 DIVISION OF THE MARYLAND DEPARTMENT OF NATURAL RESOURCES.

7 SECTION 267-30.11. REQUIRED TREE SPECIES.

8 A. TREE SPECIES USED FOR ~~AFFORESTATION,~~ AFFORESTATION AND
9 REFORESTATION AND SHADE TREE PLANTINGS SHALL BE NATIVE TO THE
10 COUNTY AND SELECTED FROM A LIST OF APPROVED SPECIES ESTABLISHED BY
11 THE DEPARTMENT.

12 B. TREE SPECIES FOR INDIVIDUAL TREE PLANTINGS CONDUCTED IN
13 ACCORDANCE WITH §267-30.10 OF THIS ARTICLE SHALL BE SELECTED FROM
14 A LIST OF APPROVED SPECIES ESTABLISHED BY THE DEPARTMENT.

15 C. THE DEPARTMENT MAY APPROVE A REQUEST FOR PERMISSION TO
16 USE A SPECIES THAT IS NOT ON THE LIST OF APPROVED SPECIES IF THE
17 REQUEST:

18 (1) IS IN WRITING;

19 (2) DESCRIBES THE CIRCUMSTANCES THAT MAKE USE OF THE
20 SPECIES APPROPRIATE; AND

21 (3) IS NOT BASED SOLELY ON ECONOMIC FACTORS.

22 ~~B.~~ D. BEFORE DECEMBER 31, 1991, THE DEPARTMENT SHALL ADOPT
23 REGULATIONS ESTABLISHING A LIST OF TREE SPECIES ~~NATIVE TO THE~~
24 ~~COUNTY~~ TO BE USED FOR AFFORESTATION, REFORESTATION, AND SHADE
25 INDIVIDUAL TREE PLANTINGS.

1 SECTION 267-30.12. SURETY FOR ~~AFFORESTATION AND REFORESTATION~~
2 FOREST CONSERVATION.

3 A. BEFORE RECEIVING A GRADING PERMIT OR A BUILDING PERMIT,
4 A PERSON REQUIRED TO CONDUCT ~~AFFORESTATION OR REFORESTATION~~
5 AFFORESTATION, REFORESTATION, OR INDIVIDUAL TREE PLANTINGS UNDER
6 THIS ARTICLE SHALL FURNISH SURETY IN THE FORM OF A BOND, AN
7 IRREVOCABLE LETTER OF CREDIT, OR OTHER SECURITY APPROVED BY THE
8 DEPARTMENT. THE SURETY SHALL:

9 (1) ASSURE THAT THE AFFORESTATION, REFORESTATION, AND
10 INDIVIDUAL TREE PLANTINGS ~~AND ASSOCIATED MANAGEMENT PLAN~~ ARE
11 CONDUCTED AND MAINTAINED IN ACCORDANCE WITH THE APPROVED FOREST
12 CONSERVATION PLAN;

13 (2) BE IN AN AMOUNT EQUAL TO THE ESTIMATED COST, AS
14 DETERMINED BY THE DEPARTMENT, OF ~~AFFORESTATION AND REFORESTATION~~
15 AFFORESTATION, REFORESTATION, AND INDIVIDUAL TREE PLANTINGS; AND

16 (3) IF THE DEVELOPMENT IS SCHEDULED TO BE CONSTRUCTED
17 IN PHASES, COVER THE PORTION OF THE DEVELOPMENT WITHIN THE LIMITS
18 OF DISTURBANCE DELINEATED IN THE GRADING PERMIT APPLICATION; AND

19 ~~(3)~~ (4) BE IN A FORM AND OF A CONTENT APPROVED BY THE
20 COUNTY ATTORNEY.

21 B. IF AFTER 1 GROWING SEASON THE AFFORESTATION,
22 REFORESTATION, AND INDIVIDUAL TREE PLANTINGS ~~ASSOCIATED WITH THE~~
23 ~~AFFORESTATION OR REFORESTATION~~ MEET OR EXCEED THE STANDARDS OF THE
24 FOREST COVER CONSERVATION AND REPLACEMENT MANUAL, TWO-THIRDS OF THE
25 AMOUNT OF ANY CASH BOND THAT HAS BEEN POSTED SHALL BE RETURNED. IF
26 THE SURETY HAS BEEN GIVEN IN THE FORM OF A LETTER OF CREDIT, A

1 SURETY BOND, OR ANOTHER FORM OF SURETY, THE COUNTY SHALL NOTIFY THE
2 APPROPRIATE ENTITY THAT LIABILITY HAS BEEN REDUCED BY TWO-THIRDS.

3 C. IF AFTER 2 GROWING SEASONS THE AFFORESTATION,
4 REFORESTATION, AND INDIVIDUAL TREE PLANTINGS ~~ASSOCIATED WITH THE~~
5 ~~AFFORESTATION OR REFORESTATION~~ MEET OR EXCEED THE STANDARDS OF THE
6 FOREST COVER CONSERVATION AND REPLACEMENT MANUAL, THE REMAINING
7 AMOUNT OF THE CASH BOND, LETTER OF CREDIT, SURETY BOND, OR OTHER
8 SURETY SHALL BE RETURNED OR RELEASED.

9 SECTION 267-30.13. STANDARDS FOR PROTECTING TREES FROM
10 CONSTRUCTION ACTIVITIES.

11 A. BEFORE CUTTING, CLEARING, GRADING, OR CONSTRUCTION BEGINS
12 ON A SITE FOR WHICH A FOREST CONSERVATION PLAN IS REQUIRED BY THIS
13 ARTICLE:

14 (1) ALL FOREST THAT IS TO BE RETAINED SHALL BE CLEARLY
15 MARKED WITH FLAGS, SIGNS, OR OTHER MATERIALS APPROVED BY THE
16 DEPARTMENT;

17 (2) PROTECTION DEVICES APPROVED BY THE DEPARTMENT SHALL
18 BE INSTALLED; AND

19 (3) THE DEPARTMENT SHALL INSPECT THE SITE TO ENSURE THAT
20 THE MARKING AND PROTECTION DEVICES ARE IN PLACE.

21 B. UNLESS APPROVED BY THE DEPARTMENT, THE FOLLOWING
22 ACTIVITIES ARE PROHIBITED WITHIN THE DRIPLINE OF A TREE THAT IS TO
23 BE RETAINED:

24 (1) GRADING;

25 (2) FILLING;

26 (3) TRENCHING;

- 1 (4) TUNNELING;
2 (5) STORAGE OF CONSTRUCTION MATERIALS OR EQUIPMENT;
3 (6) PLACEMENT OR OPERATION OF VEHICLES, EQUIPMENT, OR
4 CONSTRUCTION TRAILERS;
5 (7) SEDIMENT AND EROSION CONTROL DEVICES; AND
6 (8) ANY OTHER ACTIVITY THAT MAY RESULT IN SOIL
7 COMPACTION OR DAMAGE TO A TREE.

8 C. WHEN GRANTING APPROVAL FOR AN ACTIVITY LISTED IN
9 SUBSECTION B OF THIS SECTION, THE DEPARTMENT SHALL REQUIRE THAT
10 APPROPRIATE ACTIONS TO MITIGATE TREE DAMAGE BE UNDERTAKEN,
11 INCLUDING BUT NOT LIMITED TO SUCH ACTIONS AS ROOT AERATION, TREE
12 WELLS, AND PRUNING.

13 D. AFTER CONSULTATION WITH THE FORESTRY DIVISION OF THE
14 MARYLAND DEPARTMENT OF NATURAL RESOURCES, THE DEPARTMENT SHALL
15 ~~ADOPT~~ ADOPT, BY DECEMBER 31, 1991, REGULATIONS ESTABLISHING
16 STANDARDS FOR:

17 (1) GRANTING APPROVAL FOR THE ACTIVITIES LISTED IN
18 SUBSECTION B OF THIS SECTION; AND

19 (2) THE MITIGATION ACTIVITIES REQUIRED BY SUBSECTION C
20 OF THIS SECTION.

21 SECTION 267-30.14. VARIANCES.

22 A. THE BOARD OF APPEALS MAY GRANT A VARIANCE TO THIS ARTICLE
23 IN ACCORDANCE WITH THIS SECTION AND §267-11 OF THIS CHAPTER.

24 B. IN GRANTING A VARIANCE TO THIS ARTICLE THE BOARD SHALL
25 ISSUE SPECIFIC WRITTEN FINDINGS OF FACT DEMONSTRATING THAT THE
26 GRANTING OF THE VARIANCE WILL NOT ADVERSELY AFFECT WATER QUALITY.

1 SECTION 267-30.15. PENALTIES.

2 A. A PERSON WHO VIOLATES ANY PROVISION OF THIS ARTICLE OR
3 ANY REGULATION OR ORDER ADOPTED OR ISSUED UNDER THIS ARTICLE IS
4 LIABLE FOR A PENALTY NOT EXCEEDING \$1000, WHICH MAY BE RECOVERED
5 IN A CIVIL ACTION BROUGHT BY THE DEPARTMENT. EACH DAY A VIOLATION
6 CONTINUES IS A SEPARATE VIOLATION.

7 B. A PERSON WHO VIOLATES ANY PROVISION OF A FOREST
8 CONSERVATION PLAN OR AN ASSOCIATED MANAGEMENT PLAN APPROVED UNDER
9 THIS ARTICLE IS LIABLE FOR A PENALTY OF ~~45-CENTS~~ \$1.20 PER SQUARE
10 FOOT OF THE AREA FOUND TO BE IN VIOLATION OF THE PLAN OR AGREEMENT,
11 WHICH MAY BE RECOVERED IN A CIVIL ACTION BROUGHT BY THE DEPARTMENT.
12 EACH DAY A VIOLATION CONTINUES IS A SEPARATE VIOLATION.

13 C. MONEY COLLECTED UNDER SUBSECTION B OF THIS SECTION SHALL
14 BE DEPOSITED IN THE FOREST CONSERVATION ACCOUNT REQUIRED BY §267-
15 30.8 OF THIS ARTICLE, AND MAY BE USED BY THE DEPARTMENT FOR
16 PURPOSES RELATED TO IMPLEMENTING THIS ARTICLE.

17 Section 3. And Be It Further Enacted, That except as provided
18 in Section 4 of this Act, this Act does not apply ~~to~~ to
19 development conducted in accordance with:

20 ~~A. any development project for which a preliminary~~
21 ~~subdivision plan has been approved before July 1, 1991; and~~

22 ~~B. a conventional development with open space or a planned~~
23 ~~residential development for which a concept plan has been approved~~
24 ~~before July 1, 1991.~~

25 A. A preliminary subdivision plan approved on or before
26 December 31, 1991;

1 B. A grading permit issued on or before December 31, 1991;

2 C. A building permit issued on or before December 31, 1991;

3 D. A conventional development with open space for which a
4 concept plan is approved on or before December 31, 1991; and

5 E. A planned residential development for which a concept plan
6 is approved on or before December 31, 1991.

7 Section 4. And Be It Further Enacted, That development exempt from
8 this Act under Section 3 of this Act loses its exemption and
9 becomes subject to all provisions of this Act if:

10 A. The preliminary subdivision plan or the grading or
11 building permit under which the development is conducted was
12 approved or issued on or after July 1, 1991, and on or before
13 December 31, 1991; and

14 B. An extension of the preliminary plan or grading or
15 building permit is granted.

16 Section 4 5. And Be It Further Enacted, That this Act shall take
17 effect 60 calendar days from the date it becomes law.

18 EFFECTIVE: September 9, 1991

91-31

AS AMENDED

BY THE COUNCIL

BILL NO. 91-31 (AS AMENDED)

Read the third time.

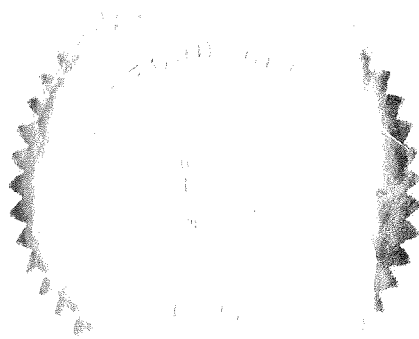
Passed: LSD 91-19 (June 18, 1991)

Failed of Passage: _____

By Order

Doris Poulsen, Secretary

Sealed with the County Seal and presented to the County Executive for her approval this 20th day of June, 1991 at 3:00 o'clock P.M.



Doris Poulsen, Secretary

BY THE EXECUTIVE

Lillian M. Rehmann
COUNTY EXECUTIVE

APPROVED:

Date July 10, 1991

BY THE COUNCIL

This Bill, (No. 91-31 As Amended), having been approved by the Executive and returned to the Council, becomes law on July 10, 1991.

Doris Poulsen, Secretary

EFFECTIVE DATE: September 9, 1991

91-31

AS AMENDED